

Chapter 22.04

PURPOSE AND ADMINISTRATION

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- 22.04.010** **Short title.**
- 22.04.020** **Application.**
- 22.04.030** **Reference.**
- 22.04.040** **Nonexclusive remedies.**
- 22.04.050** **Declaration of purpose.**

22.04.010 **Short title.**

This title shall be known as the Inyo County Code Enforcement Ordinance (Title). (Ord. 1192 § 2, 2015.)

22.04.020 **Application.**

This title applies generally to all real and personal property within Inyo County (“county”) and to all Inyo County Code provisions regulating the use thereof (code).

A. This title is established pursuant to Government Code Section 25845 to abate nuisances within the county, as well as other violations of the Inyo County Code (code) delineated herein.

B. It is the intent of the board of supervisors to delegate to the county administrator the powers and duties it has under Government Code Section 25845, as allowed by subsection (i) for the abatement of nuisances, as well as the power to abate all code violations under the code and this title whether specifically provided for in the code, including, without limitation, summary abatement of imminently dangerous conditions to protect the health, safety and welfare of the public, in order to facilitate management and empowerment of any and all hearing officers.

C. This title supplements other enforcement provisions of this code whether delineated specifically or not, but this title does not limit any code provision empowering a department head charged with enforcing this code to use in his or her discretion any relevant provision identified in the code which favors more stringent measures of enforcement including, without limitation, procedures allowing for summary abatement, imposition and level of penalties, and otherwise.

D. This title is intended to be a comprehensive title for enforcing code violations in Inyo County. Regulations being enforced under this title may include, but not be limited to, Title 7, Title 8, Title 9, Title 10, Title 14, Title 16, Title 18, Title 19, Title 20, and Title 21. Other codes and regulations that may be enforced under this title include, but are not limited to, California Civil Code Sections 3479 through 3508.2; California Food and Agricultural Code Sections 5401 through 5405; California Building Standards Code, Title 24, California Code of Regulations; California Health and Safety Code Sections 2060 through 2065, 5400 through 5474.10, 9501 through 9677, 11550 through 11595, 12500 through 12728, 13000 through 14960, 17919 through 17998.3, 18200 through 18700, 18860 through 18874, 19100 through 19217, 25100 through 25258.2, 41800 through 41815, 46000 through 46800, 111950 through 112055, 113310 through 113360, 114189 through 114245.7, 115825 through 116090, 116270 through 116755, 117400 through 117590, 117600 through 118360; California Penal Codes Sections 369a through 402c, 403 through 420.1, 552 through 558.1, 11200 through 11460, 18000 through 18010, 18710 through 19290, California Street and Highway Code Sections 1480 through 1496; California Vehicle Code Sections 21467, 22650 through 22856.

E. Every owner of real and personal property within the county is required to maintain such property in accordance with the provisions of the code, and such owner shall be liable for violations of the code regardless of any contract or agreement that the owner might have with a third party regarding the property.

F. Every legal occupant, lessee or other person with an interest in real property is required to maintain such property in the same manner as is required of the property owner, provided that a property owner or a lender holding a security interest in the property without exercising control over the property through foreclosure or other process is exempted from this section. The imposition of this duty on the property owner shall, in no instance, relieve legal occupants, lessees, or other persons of their duties under the code. (Ord. 1192 § 2, 2015.)

22.04.030 Reference.

Whenever reference is made to any portion of this title, the reference applies to this title as adopted and any subsequent amendments or additions. (Ord. 1192 § 2, 2015.)

22.04.040 Nonexclusive remedies.

The remedies provided in this title are cumulative, and shall be in addition to any other remedies provided by law. Nothing in this title shall be deemed to prevent the county from commencing any other available civil or criminal proceeding to abate a nuisance under applicable provisions of state or other law. (Ord. 1192 § 2, 2015.)

22.04.050 Declaration of purpose.

The board finds that the enforcement of the code and applicable state codes within the county is an important public service, critical to the protection of the public health, the improvement of the quality of life in the community, enhancement of public safety and the general welfare of the citizens. The board further finds that a comprehensive code enforcement system that uses a combination of administrative and judicial remedies will substantially facilitate compliance with the code. Thus, the board adopts this title to:

A. Provide a comprehensive method for the identification and abatement of certain nuisances within the county as delineated in the Inyo County Code, and state statutes and regulations and to impose any costs of abatement against the owners of the offending properties as a personal obligation and/or as a lien against real property.

B. Provide for the protection and the general welfare of the general public and of residents within the vicinity of properties or conditions constituting public nuisances of a continuing nature or with enduring or long-lasting effects to the public health, public safety, public peace, public comfort or public convenience, or property within the community whether proscribed by statute, ordinance or not.

C. Provide the citizens of the county with attractive communities consistent with the residents' values and, thereby, protect property values.

D. Allow the citizens of the county to actively participate in the community enhancement process. (Ord. 1192 § 2, 2015.)

Chapter 22.08

DEFINITIONS

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22.08.005 Definitions generally.

For purposes of this title, the following words shall have the following meaning, unless a different meaning is specifically provided for in this title, in the event clarification is required the most liberal interpretation in favor of the county shall be followed. (Ord. 1192 § 2, 2015.)

22.08.010

22.08.010 Building official.

“Building official” means the county official and his or her designated representative charged with enforcement of the county building code. (Ord. 1192 § 2, 2015.)

22.08.020 County.

“County” means Inyo County. (Ord. 1192 § 2, 2015.)

22.08.030 County administrator.

“County administrator” means the county administrator or designated representative. (Ord. 1192 § 2, 2015.)

22.08.040 Combustible materials.

“Combustible materials” means materials which are readily ignitable, free-burning, or which will ignite through contact with flames of ordinary temperatures and includes combustible decorative materials, combustible fibers, combustible liquids, and combustible waste material as those terms are defined in the California Fire Code as adopted by the county. (Ord. 1192 § 2, 2015.)

22.08.050 Complaint.

“Complaint” means a report, by any person or entity, of an alleged violation of the code or other applicable laws provided that complaints regarding zoning violations are required to be made in writing. (Ord. 1192 § 2, 2015.)

22.08.060 Days.

“Days” means calendar days unless otherwise specified. (Ord. 1192 § 2, 2015.)

22.08.070 Demolish.

“Demolish” means to destroy a building and to remove all debris and waste materials from the lot on which the building stood. (Ord. 1192 § 2, 2015.)

22.08.080 Department director.

“Department director” means the administrative head of a department or designated representative with primary authority over the sections of Inyo County Code giving rise to enforcement under this title. In the event that it is not clear which department director has primary authority, the county administrator shall select which department director(s) shall participate in enforcement of this code. (Ord. 1192 § 2, 2015.)

22.08.090 Dwelling.

“Dwelling” means a place where a person resides as specifically defined in Civil Code Section 704.710(a). (Ord. 1192 § 2, 2015.)

22.08.100 Enforcement.

“Enforcement” means all efforts, following complaint, to secure compliance or abatement. This may include review of plans and permit applications, response to complaints, citation of violations, and other legal process, provided that complaints regarding zoning violations are required to be made in writing. (Ord. 1192 § 2, 2015.)

22.08.110 Code enforcement hearing officer.

“Code enforcement hearing officer” means an individual or individuals appointed by the county administrator, acting singularly or collectively, with the authority to conduct a hearing and following a hearing to affirm, modify or reverse an order of abatement as provided for and described in this title, in accordance with regulations that may be established by the county administrator or on designation a department director. (Ord. 1192 § 2, 2015.)

22.08.120 Imminently dangerous.

“Imminently dangerous” means that the condition of property or a building, if abated according to the procedures set forth in this title requiring notice and an opportunity for a hearing, may, during the pendency of those proceedings, subject the public, occupants, or neighbors, or the property of these persons to potential harm of a serious nature. (Ord. 1192 § 2, 2015.)

22.08.130 Legal occupant.

“Legal occupant” means any person over one year of age lawfully living, sleeping, cooking or eating in, or otherwise having possession of a dwelling unit. (Ord. 1192 § 2, 2015.)

22.08.140 Mediation.

“Mediation” means the process following receipt of a complaint during which the department director works with the property owner to informally resolve issues relating to alleged violations of this code or other applicable laws. (Ord. 1192 § 2, 2015.)

22.08.150 Notice of administrative violation.

“Notice of administrative violation” means the notice issued by the department director or designated representative(s), which may include, but is not limited to, the code enforcement officer. (Ord. 1192 § 2, 2015.)

22.08.160 Nuisance.

“Nuisance” means any nuisance defined pursuant to Part 3 of Division 4 of the Civil Code commencing with Section 3479, any other nuisance recognized at common law or in equity, or any nuisance as defined by the code. (Ord. 1192 § 2, 2015.)

22.08.170 Occupy.

“Occupy” means to reside or dwell in for purposes of shelter, sleeping or cooking. (Ord. 1192 § 2, 2015.)

22.08.180 Order of abatement.

“Order of abatement” means any final order or notice requiring abatement of a nuisance pursuant to this title or other applicable law issued by the department director. (Ord. 1192 § 2, 2015.)

22.08.190 Personal property.

“Personal property” means temporary or moveable property as distinguished from real property. (Ord. 1192 § 2, 2015.)

22.08.200 Property.

“Property” means all land and buildings considered together which includes, but is not limited to, all real property, parking lots, sidewalks, gutters, driveways, walkways, any buildings and structures and improvement thereon located on the premises. (Ord. 1192 § 2, 2015.)

22.08.210 Property owner or owner.

“Property owner” or “owner” means any person owning property as shown on the last equalized assessment roll for county taxes or holding possession of the property as a result of foreclosure or other process on a security interest in the property. (Ord. 1192 § 2, 2015.)

22.08.220 Public nuisance.

“Public nuisance” includes, but is not limited to, a nuisance that affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; or any public nuisance as defined by state law or the code. (Ord. 1192 § 2, 2015.)

22.08.230 Reasonable time(s).

“Reasonable time(s)” means between the hours of eight a.m. and six p.m., Monday through Friday, inclusive, unless otherwise required by: (1) an emergency impacting the safety or preservation of life or property; or (2) the fact that the alleged violation of this code or other applicable laws only occurs at some other hour or on a weekend. (Ord. 1192 § 2, 2015.)

22.08.240 Registered.

“Registered,” with respect to vehicles, means a current, valid California registration for a vehicle conforming to California Vehicle Code Section 4000 or 9840 et seq. (Ord. 1192 § 2, 2015.)

22.08.250 Rental dwelling unit.

“Rental dwelling unit” means a dwelling unit rented for any tenure, type or price. (Ord. 1192 § 2, 2015.)

22.08.260 Rubbish.

“Rubbish” means and includes castaway furniture, packing materials, construction waste, dry manure, debris, tree or shrub trimmings, unwanted or undesirable materials, waste or other matter that could constitute or increase a health risk or fire hazard. (Ord. 1192 § 2, 2015.)

22.08.270 Serve.

“Serve” means placement of a document directed to the property owner in the United States mail and is deemed complete on deposit in the mailbox. (Ord. 1192 § 2, 2015.)

22.08.280 Sheriff.

“Sheriff” means the elected sheriff of the county or designated representatives. (Ord. 1192 § 2, 2015.)

22.08.290 State housing law.

“State housing law” means Division 13, Part 1.5 of the Health and Safety Code (commencing at Section 17910) and Article 1 (commencing at Section 1) of Chapter 1, Title 25 of the California Code of Regulations. (Ord. 1192 § 2, 2015.)

22.08.300 Tenant.

“Tenant” means the person lawfully occupying a dwelling unit or rental dwelling unit. (Ord. 1192 § 2, 2015.)

22.08.310 Vehicle.

“Vehicle” means a device by which any person or property may be propelled, moved or drawn upon a highway, road or body of water and, for the purposes of this title, shall include, but not be limited to, automobiles, trailers, recreational vehicles, campers, boats, motorcycles and mopeds, whether or not such vehicles are registered as required by law. (Ord. 1192 § 2, 2015.)

Chapter 22.12

ADMINISTRATION AND ENFORCEMENT

Sections:

- 22.12.010** **Code interpretation.**
- 22.12.020** **Adoption of code enforcement regulations.**
- 22.12.030** **Investigation.**
- 22.12.040** **Authority to enter and inspect.**
- 22.12.050** **Process following determination of violation.**
- 22.12.060** **Continuing violations.**
- 22.12.070** **Remedies.**
- 22.12.080** **Authority to issue criminal citations and make arrests.**
- 22.12.090** **Disclaimer of liability.**

22.12.010 **Code interpretation.**

The department director shall have the power to render interpretations of this title and its regulations in order to clarify the application of its provisions to those sections of the code pertaining to his or her enforcement obligations. Such interpretations shall conform to the intent and purpose of this title and the code. (Ord. 1192 § 2, 2015.)

22.12.020 **Adoption of code enforcement regulations.**

In addition to the provisions of this code, each department director may abide by such provisions of the code defining his or her enforcement obligations that supplement the department director's authority. Each department director is authorized to adopt and enforce reasonable regulations consistent with the purposes, intent and express terms of this enforcement code as he or she deems necessary to implement the purposes, intent, and express terms of the code. No regulation or amendment thereto, shall be enforced or become effective until thirty days following the date on which the proposed regulation or amendment has been filed with the board clerk. At the discretion of the department director or county administrator, or the request of any member of the board of supervisors, any regulation promulgated by the department director may be brought to the board of supervisors for approval. (Ord. 1192 § 2, 2015.)

22.12.030 **Investigation.**

Following receipt of a complaint, the complaint shall be investigated by the department director or designee, provided that complaints of zoning violations are required to be made in writing. (Ord. 1192 § 2, 2015.)

22.12.040 **Authority to enter and inspect.**

A. Inspections. To the extent allowed by law, the department director or designee, including, but not limited to, the code enforcement officer, may enter and inspect any property regarding a violation of the provisions of the code. The department director or designee, including, but not limited to, the code enforcement officer, may make any examinations and surveys as necessary in performing these inspections as permitted by law and consistent with legally recognized privacy rights. These duties may also include the taking of photographs, samples or other physical evidence. All inspections, entries, examinations and surveys shall be conducted in a reasonable manner.

B. If a property is unoccupied, the department director or designee, including, but not limited to, the code enforcement officer shall make a reasonable effort to locate the owner or other persons having charge or control of the property and request entry.

C. If an owner, lawful occupant, or the respective agent, employee, or representative therefor refuses permission to enter a dwelling and/or inspect its interior, the county acting by and through such persons authorized to enforce this code may seek an administrative inspection warrant pursuant to the procedures provided by California Code of Civil Procedure Sections 1822.50 through 1822.59, as amended from time to time and such other provisions of law as authorize entry. See Chapter 1.08.

D. No person authorized to enter buildings shall enter any dwelling between the hours of six p.m. of any day and eight a.m. of the succeeding day, without the consent of the owner or occupants of the dwelling, nor enter any dwelling for which the occupants have refused entry without a proper written order executed and issued by a court of competent jurisdiction. See subsection C and Chapter 1.08. (Ord. 1192 § 2, 2015.)

22.12.050 Process following determination of violation.

A. Opportunity to Correct. If a violation is determined to exist, the department director shall notify the involved property owner or legal occupant (collectively referred to herein as "property owner," see Section 17.04.020) orally to abate the violation (oral notification).

If thirty days after oral notification the violation continues, the department director shall issue and serve a written notice of administrative violation (notice) to the property owner requiring correction of the violation within thirty days.

If the violation is continuing thirty-five days after the notice was served, the department director shall issue and serve a final notice (final notice) to the property owner to correct the violation within thirty days.

B. Order of Abatement. If the violation continues thirty-five days after the final notice was served the department director will issue and serve an order of abatement.

The order of abatement is deemed final, if not appealed.

The order of abatement is deemed final, if an appeal once filed is not taken to conclusion.

C. Appeal of Order of Abatement. Within fifteen days following service of the order of abatement, the cited property owner may file a written appeal with the department director setting forth all reasons why the order of abatement should be modified or reversed.

1. The designated code enforcement hearing officer will be provided a copy of the appeal by the department director within ten days of receipt.

2. The hearing will be set by the hearing officer within thirty days, unless a longer time is requested by the cited property owner and agreed to by the department director and hearing officer.

3. The department director or designee has the burden of proving a nuisance/code violation existed when the order of abatement was served.

4. The hearing officer may give consideration to the cited property owner's elimination of the nuisance/code violation subject to the order at the time the hearing commences.

5. The hearing officer may give consideration to the cited property owner's application to the planning commission for a variance or conditional use permit to lawfully allow maintenance of the violation subject to the order at the time the hearing commences.

6. The cited property owner may present written and oral evidence to show there was no violation at the time the order of abatement issued and/or the hearing commenced.

7. The rules of evidence shall not apply to the hearing.

8. If the hearing officer finds a code violation continues and no circumstances exist warranting additional time such as, but not limited to, when applicable a pending application to the planning commission for a variance

or conditional use permit or proof of a plan to remediate the code violation with a date certain, the cited property owner may be required to pay a fine set in the discretion of the hearing officer in an amount not to exceed one thousand dollars.

9. If the hearing officer finds that additional time is warranted to correct the violation, the hearing officer shall identify a reasonable period of time to correct the violation, which shall be ordered by the hearing officer. If the violation is not corrected within the specified period of time, the hearing officer shall issue a ruling.

10. Enforcement of an order of abatement is stayed pending the hearing officer's ruling, which shall issue within thirty days of the close of the hearing.

11. The hearing officer's ruling (ruling) shall be served on the cited property owner by the department director within ten days of issuance. If the order of abatement is affirmed the department head may in his or her discretion summarily abate any nuisance the hearing officer or the department head determines constitutes imminent danger and an immediate threat to public health or safety. Nothing in this section is designed to supersede or limit the power to summarily abate a code violation already given to a department head by code.

D. Enforcement of the Order of Abatement.

1. The hearing officer's ruling shall be a final and binding decision with regard to the order of abatement with no right of further appeal.

2. If the hearing officer's ruling has not been satisfied in its entirety by the property owner or through summary abatement within forty-five days following its issuance, or the elapse of any additional time allowed in the ruling, the ruling shall be submitted to the county counsel to enforce pursuing any and all legal options to abate the nuisance/code violation including, without limitation, seeking the appointment of a receiver and such other civil remedies as may now be or later become available.

3. The county counsel may ask the district attorney to prosecute the violation abatement to the extent allowed by law in the district attorney's discretion as a misdemeanor or an infraction.

4. All costs including, without limitation, reasonable administrative and attorney fees associated with an abatement proceeding shall be charged to the cited property owner.

5. Any fine and/or cost of abatement may be recorded as a lien against the property. (Ord. 1192 § 2, 2015.)

22.12.060 Continuing violations.

The continuing violation of an order of abatement that is not appealed or an order of abatement that is sustained following a hearing officer's ruling shall be a separate violation for each and every day that such violation exists and is subject to a fine of fifty dollars for each day without further hearing. (Ord. 1192 § 2, 2015.)

22.12.070 Remedies.

All remedies provided for herein shall be cumulative and not exclusive. The conviction and punishment of any person, hereunder, shall not relieve such person from the responsibility of correcting prohibited conditions or removing prohibited buildings, structures or improvements, nor prevent the enforced correction or removal thereof summarily or otherwise. (Ord. 1192 § 2, 2015.)

22.12.080 Authority to issue criminal citations and make arrests.

In performing his or her duties under this title, the sheriff and designated representatives shall have the authority and impunities of a public officer and employee as set forth in Penal Code Section 836.5, which include, but are not limited to: (1) making arrests without a warrant whenever he or she has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his or her presence, which is a violation of this code or applicable state codes; and (2) issuing field citations as a substitute for physical arrest. (Ord. 1192 § 2, 2015.)

22.12.090 Disclaimer of liability.

Nothing in this title shall be construed as requiring the county to enforce its prohibitions against all properties that may violate such prohibitions. The county envisions that this title will be enforced, in the county's prosecutorial discretion, as resources permit. This title is not intended to and shall not be construed or given effect in a manner that imposes upon the county or any officer or employee thereof a mandatory duty of care towards persons and property within or without the county so as to provide a basis of civil liability for damages, except as otherwise imposed by law. (Ord. 1192 § 2, 2015.)